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AMENDMENTS TO LB 608

(Amendments to FA1206)

1                   1. Insert the following new section:

2                   "Sec. 5. Section 77-4107, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4                   77-4107. (1) If the taxpayer fails either to meet the  
5 required levels of employment or investment for the applicable  
6 project by the end of the sixth year after the end of the year the  
7 application was submitted for such project or to utilize such  
8 project in a qualified business at employment and investment levels  
9 at or above those required in the agreement for the entire  
10 entitlement period, all or a portion of the incentives set forth in  
11 the Employment and Investment Growth Act shall be recaptured or  
12 disallowed.

13                   (2) The recapture or disallowance shall be as follows:

14                   (a) In the case of a taxpayer who failed to meet the  
15 required levels within the required time period, all reduction in  
16 the personal property tax because of the Employment and Investment  
17 Growth Act shall be recaptured and any reduction in the corporate  
18 income tax arising solely because of an election under subsection  
19 (1) of section 77-4105 shall be deemed an underpayment of the  
20 income tax for the year in which the election was exercised and  
21 shall be immediately due and payable; and

22                   (b) In the case of a taxpayer who has failed to maintain  
23 the project at the required levels of employment and investment for

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1 the entire entitlement period, any reduction in the personal  
2 property tax, any refunds in tax allowed under subdivision (3)(a)  
3 of section 77-4105, and any refunds or reduction in tax allowed  
4 because of the use of a credit allowed under subsection (4) of  
5 section 77-4105 shall be partially recaptured from either the  
6 taxpayer or the owner of the improvement to real estate and any  
7 carryovers of credits shall be partially disallowed. One-seventh  
8 of the refunds, one-seventh of the reduction in personal property  
9 tax, and one-seventh of the credits used shall be recaptured and  
10 one-seventh of the remaining carryovers and the last remaining year  
11 of personal property tax exemption shall be disallowed for each  
12 year the taxpayer did not maintain such project at or above the  
13 required levels of employment or investment.

14 (3) If a taxpayer receiving incentives under the act for  
15 an application filed on or after the effective date of this act  
16 habitually or intentionally violates any environmental, health,  
17 safety, or labor law of this state or the United States and the  
18 violation results in significant and material damage to the  
19 environment or any person, a portion of the incentives shall be  
20 recaptured or disallowed as provided in this section. For such a  
21 taxpayer, any reduction in the personal property tax, any refunds  
22 in tax allowed under subdivision (3)(a) of section 77-4105, and any  
23 refunds or reduction in tax allowed because of the use of a credit  
24 allowed under subsection (4) of section 77-4105 shall be partially  
25 recaptured from either the taxpayer or the owner of the improvement  
26 to real estate and any carryovers of credits shall be partially  
27 disallowed. One-seventh of the refunds, one-seventh of the

1 reduction in personal property tax, and one-seventh of the credits  
2 used shall be recaptured and one-seventh of the remaining  
3 carryovers and the last remaining year of personal property tax  
4 exemption shall be disallowed for each year the taxpayer committed  
5 such violation. The determination of whether a violation is  
6 habitual or intentional and results in significant and material  
7 damage shall be made by the Department of Revenue in consultation  
8 with other applicable regulatory agencies.

9           (4) Any refunds or reduction in tax due, to the extent  
10 required to be recaptured, shall be deemed to be an underpayment of  
11 the tax and shall be immediately due and payable.

12           When tax benefits were received in more than one year,  
13 the tax benefits received in the most recent year shall be  
14 recovered first and then the benefits received in earlier years up  
15 to the extent of the required recapture.

16           ~~(4)~~ (5) Any personal property tax that would have been  
17 due except for the exemption allowed under the Employment and  
18 Investment Growth Act, to the extent it becomes due under this  
19 section, shall be considered an underpayment of such tax and shall  
20 be immediately due and payable to the county or counties in which  
21 the property was located when exempted. All amounts received by a  
22 county under this section shall be allocated to each taxing unit  
23 levying taxes on tangible personal property in the county in the  
24 same proportion that the levy on tangible personal property of such  
25 taxing unit bears to the total levy of all of such taxing units.

26           ~~(5)~~ (6) Notwithstanding any other limitations contained  
27 in the laws of this state, collections of any taxes deemed to be

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1 underpayments by this section shall be allowed for a period of ten  
2 years after the signing of the agreement or three years after the  
3 end of the entitlement period, whichever is later.

4 ~~(6)~~ (7) Any amounts due under this section shall be  
5 recaptured notwithstanding other allowable credits and shall not be  
6 subsequently refunded under any provision of the Employment and  
7 Investment Growth Act unless the recapture was in error.

8 ~~(7)~~ (8) The recapture required by subsection (1) of this  
9 section shall not occur if the failure to maintain the required  
10 levels of employment or investment was caused by an act of God or  
11 national emergency.".

12 2. Renumber the remaining sections and correct internal  
13 references and the repealer accordingly.